

DEFINING EFFECTIVE OVERSIGHT:
A CASE STUDY OF SUNSET **LEGISLATION**
AT THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY
AFFAIRS

BY:
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ABSTRACT

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Elected bodies utilize a significant number of oversight methods to ensure that the governmental agencies entrusted with public funds are not only carrying out the will of elected officials, but are doing so in an efficient manner. The question is what constitutes effective government oversight? What are the important components of effective oversight?

The purpose of this research is two fold. First, this paper presents characteristics of effective government oversight as developed from scholarly literature related to agency evaluation. Next, the research takes these characteristics and applies them to the oversight procedure used by the Texas Sunset Review process to explore how closely the process meets the characteristics of effective oversight. To conduct this exploration, a case study of the Sunset Review process at the Texas Department of Housing and Community Affairs is utilized. In this way assessing the implementation of Sunset allows for a more complete view of effective oversight as well as a deeper understanding of the Texas Sunset Review process.

The literature provides four primary characteristics of effective oversight:

1. Effective oversight is detailed
2. Effective oversight is comprehensive
3. Effective oversight contains an "in person" element
4. Effective oversight results in legislative action

Based on the evidence provided via the case study in the form of document analysis and interviews, it was determined that the Sunset Review process as implemented at the Texas Department of Housing and Community Affairs was 1) effective, 2) contained an "in person" element and 3) resulted in legislative action, however the evidence did not support the conclusion that the Sunset Review process as implemented at the Texas Department of Housing and Community Affairs was comprehensive

The paper concludes with recommendations for future research in two areas; 1) how the application of the "community of inquiry" concept, as discussed by Patricia Shields in her forthcoming article.¹ would improve the Sunset Review process and 2) a comparison of the Sunset staff's notes to the final sunset report as well as the Sunset staff's report to the final legislation.

¹ 2003 publication of *Administration and Society*

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Chapter One

Introduction

Today, in America, there are hundreds of thousands of outstanding public servants at all levels of government in various positions. From police to fire fighters, from city planners to utility service providers, an organized government is made possible by those that dedicate their lives to public service. Despite the dedication of these individuals, problems with government agencies do occur. To ensure that public entities are operating at peak efficiency and carrying out the will of elected officials, government oversight is essential. Robert Barker notes that the foundation of America's government more than 200 years ago "laid the foundation for ongoing accountability (Barker. 2000, p. 2)." The question is what constitutes effective government oversight? What are the important components of effective oversight?

One of the more visible and formal methods of government oversight is Sunset Legislation. Unique in many aspects, Sunset Legislation is an extensive process of oversight employed by a majority of states and local communities. According to Cynthia Slaughter, Sunset Legislation, originally drafted in the late 1970s, promised a new approach to oversight by requiring governmental entities to prove their continued need (Slaughter, 1986, p. 241). Sunset Legislation is the oversight method explored in this research. Sunset Legislation is comprised of various layers of review. It is these layers that make Sunset Legislation an ideal oversight method for this exploration.

Research Purpose

The purpose of this research is two fold. First, characteristics of effective government oversight are developed from scholarly literature related to agency evaluation. Secondly, this definition will be applied the oversight procedure used by the Texas Sunset Review Process to explore how closely the process meets the definition of effective oversight.¹ To conduct this exploration, a case study of the Sunset Review process at the Texas Department of Housing and Community Affairs is utilized. In this way assessing the implementation of Sunset allows for a more complete view of effective oversight as well as a deeper understanding of the Texas Sunset Review process²

Chapter Summaries

Chapter Two presents a review of the literature on government oversight methods. The Chapter provides two primary categories of oversight, reactionary and systematic. Chapter Two also discusses a variety of activities not typically viewed as oversight, but that often lead to bureaucratic review. Chapter Two concludes with a presentation of the conceptual framework and provides two tables that connect the working hypotheses to the literature.

Chapter Three details the research setting. A comprehensive view of the Texas Department of Housing and Community Affairs is presented that includes

¹ Of the two main forms of oversight, legislative and performance, this study uses primarily literature from the legislative aspect of oversight. For the purposes of this research, the definitions and conceptual framework is derived from the legislative form of oversight.

² The Setting Chapter outlines the Sunset Review process as it occurred at TDHCA including some of the specific recommendations of the Sunset Commission as well as the final requirements of the Sunset Legislation.

each of TDHCA's programs as well as the administrative organization of the agency. Next, the chapter details information on the Texas Sunset Review Process that includes a history of the Texas Sunset Commission's actions and information on specific components of the review process.

The research methodology is presented in Chapter Four. The discussion includes the forms of analysis that are employed as well as the strengths and weaknesses of each method. The data that is analyzed is discussed and details of each data source are presented. The chapter concludes with a table that connects the working sub hypotheses to the data sources.

The results of the research and analysis are discussed in Chapter Five. Each of the four sub hypotheses is presented along with the data that either supports or rejects the hypotheses. Possible conflicts in the analysis, such as the TDHCA staff interviews disagreeing with the data derived from the document analysis, is also discussed.

The research concludes in Chapter Six with a summary of the results. As the purpose of this research is to explore the Sunset Review process by a case study using ideal characteristics defined from scholarly research discussing "effective oversight"; the results chapter discusses each area of the definition and how, if at all, the Sunset Process meets the definition. Unanticipated data is discussed in this chapter as well, which provides significant opportunities for different approaches to oversight. Chapter six concludes with recommendations for future research that relate to the unanticipated data as well possible reform to oversight, specifically the Sunset Review process.

Chapter Two

Review of the Literature

Congress, as well as state and local governments, encounter numerous challenges when attempting to conduct oversight of public programs. According to Bernard Rosen (1998, p. 26), some of those challenges include "imprecise definitions of program goals," "lack of adequate staff," "lack of time required to do adequate oversight," "non-objectivity resulting from the mutually reinforcing relationships that develop between legislative committees and federal agencies," and a "lack of established patterns of cooperation among authorizing, appropriations, and government operations committees in sharing information relevant to agency and program oversight." Morris Ogul (1976, p. 11) defines legislative oversight as "behavior by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behavior." Both Ogul (1976, p. 10) and Rosen (1998, p. 4) note that oversight, particularly at the federal level, can occur sporadically, as a reaction to a problem, or systematically such as the case of budget creation.³ Mathew McCubbins and Thomas Schwartz (1984, p. 165-79) describe this type of congressional behavior as "police patrol" and "fire alarm" oversight methods. As the names suggest, "police patrol" is a form of oversight that Congress regularly

³ Ogul also notes that the sporadic nature of federal oversight leads to the impression that poor oversight is conducted at the federal level.

conducts into agency actions. "Fire alarm" is a form of oversight that is a reaction to citizens' or interest groups' complaints about agency actions.⁴

This chapter outlines the methods employed by the various levels of government for oversight. Governing bodies have a variety of methods of oversight that are often used simultaneously (Lowi et al. 2002, p. 303-308). It appears that congressional or other governmental oversight is multifaceted and has the potential to tap into many layers of bureaucratic functioning. The purpose of this chapter is to develop an understanding of what constitutes effective oversight based on the methods identified in the literature. The first section addresses systematic oversight, or the "police patrol" methods. The next section addresses reactionary oversight, or the "fire alarm" methods. The third and fourth sections discuss actions, groups or laws that lead to oversight, but are not traditionally defined as oversight. The chapter concludes with an analysis of the oversight methods discussed. The conceptual framework used to analyze an oversight system is developed using the insights from scholarly literature. Each method of oversight discussed possesses certain strengths as identified by the authors.⁵ These strengths are the foundation of the working hypotheses used by the conceptual framework. The case study of the Texas Department of Housing and Community Affairs Sunset Review is the oversight method analyzed for this research.

⁴ McCubbins and Schwartz assert that the "fire alarm" method of oversight is more efficient and cost effective than the "police patrol" method. The authors claim that the "fire alarm" method allows Congressional members to focus their time and efforts on particular problems that will also result in political gain.

⁵ The strengths are highlighted in various sections of this chapter in both the body of the text as well as footnotes.

SYSTEMATIC OVERSIGHT

THE BUDGET PROCESS

One of the most time consuming responsibilities of Congress is the development of the budget. Given the significant amount of time and importance assigned to budget development, oversight is a logical companion to the appropriations process. According to Ogul, (1976, p. 155) Appropriations Committees and Subcommittees spend a significant amount of time reviewing the executive departments expenditures over the previous year. As each area of the agency's budget and corresponding activities are reviewed a comprehensive assessment can be made of the agency. As the budget process is an annual one, Congress has an opportunity each year to use this oversight measure.

An examination of both the strengths and weaknesses of a particular oversight method allow one to distill key components of effective oversight. Rosen (1998, p. 67) maintains that while a comprehensive review is possible during the appropriations process, unfortunately time constraints make comprehensive review difficult to achieve.⁶

GENERAL ACCOUNTING OFFICE

The General Accounting Office (GAO) serves as the federal "watchdog agency" for Congressional members and reports on the "efficiency and

⁶ The strength of the budget process as an oversight measure lies in the ability of Congressional members, through the work of the appropriations committee, to gain a **comprehensive** view of agencies undergoing the allocation process.

performance of federal programs" (Bresler et al. 2002, p. 265). Given this task, the GAO plays a significant role in bureaucratic oversight. The GAO is a standing agency, created in 1921, that on a continuous basis audits federal bureaucracies. The GAO possesses subpoena power and has the authority to "examine all papers and records of executive-branch agencies, interview officials and employees, and investigate all aspects of the receipt and expenditure of funds" (Rosen, 1998, p. 80). According to an article by D. Grier Stephenson, Jr., Robert J. Bresler, and Robert J. Friedrich, the sole purpose of the 3200 employees of the GAO is to "see whether a program is achieving the objectives that Congress has prescribed."

LEGISLATIVE AUDITS

The Congressional Research Service (CRS) and the Congressional Budget Office (CBO) exists to provide congressional committees with research and analysis of agencies and policy issues. Similar to the GAO, in that the CRS and the CBO examine administrative functions in a detailed manner and then report the findings to Congress, both agencies provide substantial information to Congress regarding bureaucratic activities.⁷ Despite the similarities, the CRS and CBO lack the power of the GAO to compel agency responsiveness (Bresler et al. 2002, p. 265).

⁷ The strength of the GAO lies in its wide variety of methods to obtain information which in turn lead to a highly detailed review of agency actions. The GAO also has the authority to require agency responsiveness to inquiries.

⁸ Similar to the GAO, the strength of the CRS and CBO lie in their ability to compile detailed information for congressional committees.

According to Rosen (1998, p. 82), the staff members for these agencies typically have accounting backgrounds although some departments have added staff with more diverse experience in an effort to conduct detailed reviews of policy and program effectiveness. The CRS and CBO serve both the House and the Senate.

SUNSET LEGISLATION

According to Mark Daniels, (1997, p. 33) Sunset Legislation is one of the most significant oversight measures adopted at the state level.⁹ As Sunset Legislation is the subject of empirical analysis in this research, this method of oversight is of particular interest. Colorado was the first state to adopt Sunset Legislation in 1976. "The objective of most states adopting sunset laws was to improve agency efficiency and accountability (Daniels, 1997, p. 33)." Sunset laws are a unique method of oversight. Landon Curry, Cynthia Opheim, and Patricia Shields explain that under Sunset, agencies that are not "specifically reauthorized before the scheduled deadline would be abolished (Curry et al, 1994, p. 253)." According to Marcus Ethridge. the strength of sunset laws lies in the "periodic legislative evaluation and reauthorization of agencies and programs" and that this action "establishes an institutional means of control (1985, p. 47)."

Daniels notes (1997, p. 32) that state agencies typically undergo Sunset Review every 8-12 years, depending on that state's law, and are either reestablished with recommendations for improvement, merged with other

⁹ Some local governments also use Sunset Commissions, however they do not typically operate within the same **comprehensive** scope of Sunset Legislation at the slate level. Federal sunset legislation has never been adopted.

agencies conducting similar business, or terminated if they are no longer deemed necessary. According to Cynthia Slaughter (1984, p. 3) prior to Sunset it was the legislators who came to the agencies to make inquiries, but with the adoption of Sunset, the agencies were placed in the position of justifying their existence. This aspect of Sunset "reverses the normal assumptions of oversight (Slaughter, 1984, p. 3)." The assumption that governing bodies must initiate inquiries and oversight flipped with Sunset legislation, putting the responsibility with the agencies to demonstrate their effectiveness and provide justification for their continuation.

Curry et al notes that agency termination has "generally been limited to small, politically weak agencies, and the prospects for termination have become increasingly remote because most unsupportable agencies were eliminated in the first cycle (1994, p. 255)." However, according to Slaughter (1986, p. 242), advocates of Sunset assert that the main purpose of Sunset is to make government agencies more responsive and accountable for their actions and policies with the primary goal of improving bureaucratic performance.¹⁰

¹⁰ Based on Opheim et al, Slaughter, Daniels and Ethridge's writings, the strength of Sunset lies in its periodic review as well as its **comprehensive** nature.

REACTIONARY OVERSIGHT¹¹

COMMITTEES

The vast majority of all work accomplished by Congress is done in committees – this includes oversight activities. According to Ogul, "almost all legislative oversight is conducted by the standing committees and subcommittees of Congress. A modest fraction comes from individual members as they process paperwork (1976, p. 183)." The responsibilities of standing committees were formalized by the Legislative Reorganization Act of 1946, and further defined in the Legislative Reorganization Act of 1970. The 1970 Act "substituted 'review and study' of administrative actions on a continuing basis for 'continuing watchfulness' (Rosen, 1998, p. 68-69)." According to Rosen, the purpose of oversight is claimed to be a priority of committees, however, many legislative committees continue to view oversight as "a secondary, not primary, responsibility (1998, p. 68-69)."¹²

CASEWORK

A substantial portion of a Legislator's time is spent conducting casework as a response to constituent concerns. Casework is typically performed at the request of a citizen or group of citizens. In response to that request, legislators and their staff begin researching issues that range from citizen's assertions of

¹¹ The "fire alarm" method of oversight.

¹² The strength of committee work as an oversight measure is the degree to which committees can examine the ongoing operations of an agency as well as the fact that committees work closely and **in-person** with the agencies they are reviewing – this "**in-person**" element allows for a greater understanding of the subject matter.

agency wrongdoing, to needs left unattended by a specific agency. According to Ogul (1976, p. 166), casework analysis has the potential to "heighten the awareness of executive operations." This increase in awareness is a "precondition for oversight activities."¹³

INVESTIGATIONS

As the term suggests, investigations of federal programs are typically a congressional response to accusations of wrongdoing.¹⁴ "Investigations of agencies are most often initiated by a subcommittee or committee as a result of serious problems, complaints, or improprieties brought to the attention of members of the staff by constituents, interest groups, or the news media (Rosen, 1998, p. 70)." As an oversight tool, investigations are normally conducted in conjunction with other activities such as hearings, appropriations or other initial congressional reviews (Rosen. 1998, p. 70).

HEARINGS

Given their potential for bringing problem areas to the notice of legislators, hearings are one of the most common forms of oversight. Rosen notes (1998, p. 91) that public hearings are an effective mechanism for allowing citizen input and participation in government. During public hearings citizens are provided with

¹³ The primary strength of casework as oversight, according to Rosen, comes from its ability to "expose the need for changes in both law and administration." This ability, based on Ogul's observations, comes from the **comprehensiveness** that is inherent in casework.

¹⁴ According to Kosen, the strength of investigations is the level of detail it allows legislators, to review agency action or policy. In addition to this aspect, investigations allow for an "**in-person**" element that permits Legislators to become more involved in the review.

first hand opportunities to deal directly with administrators and policy makers. Also according to Rosen (1998, p. 91), public hearings encourage citizen participation in government functions. Vaughn notes that access provided to citizens, such as the access granted via public hearings, allows citizens to "challenge government actions with which they disagree and seek redress for official misconduct (2000, p. 1)."

OTHER FORMS OF OVERSIGHT

As has been demonstrated up to this point, oversight occurs in a variety of forms. What are discussed in this section are those forms of oversight that are not typically labeled as oversight, but do provide either oversight opportunities or serve as a starting point for legislative review. Barker notes (2000, p. 81) that bureaucracies are reviewed through multiple "non-statutory" methods, some of which occur during a congressional session, while others occur through other avenues. Barker goes on to state that additional informal means of oversight include legislative staff placing telephone calls to an agency head to resolve a situation that then results in some change in the way the agency functions – however minor that change may be. Another method often employed by legislators is polling; the responses allow legislators and administrators to find opportunities for positive change in agency functions (Barker, 2000, p. 81).¹⁵ These are some examples of oversight that is conducted on a daily basis, although each of these methods in and of themselves is not typically viewed as

¹⁵ Barker cautions that due to the difficulty of properly designing polling mechanisms, this method of oversight should be used with caution and responses should be verified.

oversight. The following sections address activities and groups that also serve as oversight methods.

OVERSIGHT RELATED ACTS

Perhaps the best-known federal act that requires openness in government, and as a result provides indirect oversight, is the Freedom of Information Act (FOIA).¹⁶ According to Robert Vaughn (2000, p. 2), the FOIA is based on the presumption that "any person is entitled to government documents and that persons requesting these documents need not give any reason why they want the documents or explain what use will be made of them." Vaughn goes on to note that the basic exemptions of the FOIA lie in protecting national security or personal privacy. Other acts that create secure, open and "transparent" government include: the Sunshine in Government Act, the Ethics in Government Act, the Whistleblower Protection Act and the Privacy Act (Vaughn, 2000, p. 8-9).¹⁷

The Government Performance and Results Act (GPRA), passed in 1993, also provides for oversight opportunities (Rosen, 1998, p. 88). Jerry Ellig, the Honorable Maurice McTigue, and Steve Richardson (2001, p. 1) note that the GPRA directs federal agencies to "explain the results they seek to achieve, identify performance measures, and report on those measures." According to Ellig et al (2001, introduction), the GPRA's primary focus is to "improve

¹⁶ FOIA, signed into law by President Johnson in 1966, is administered by the Justice Department and requires that all records held by the government be open to public review.

¹⁷ Transparency in government allows for a **comprehensive** view of agency actions as all areas of performance or policy is available for public inspection.

accountability" through a focus on "outcomes – public benefits that result from government activity."¹⁸

The Ethics in Government Act, according to Vaughn (2000, p. 5), requires that "members of Congress, federal judges and certain executive officials, including high ranking civil servants, file financial information which is made available to the public." Rosen notes (1998, p. 164) that this act also created the Office of the Independent Council. The value of this as an oversight measure is that the act requires high-ranking civil servants to disclose financial information. Similar to the Ethics in Government Act, the Sunshine in Government Act or the "Sunshine Law" promotes openness in government. Rosen notes (1998, p. 144) that the Sunshine in Government Act, approved in 1976, "prohibits ex parte communications, that is, private communications between a person having an interest in a decision of the body and a member of the decision making body." This act also requires open meetings – which means that all meetings of public agencies must be advertised publicly and must be available to the public.

Another federal act that allows for oversight potential is the Chief Financial Officer (CFO) Act. According to Rosen (1998, p. 185), the CFO Act requires "each of 14 federal departments and 10 designated agencies to 1. centralize financial management functions under the leadership of a chief financial officer, 2. prepare annually audited financial statements and 3. consolidate and modernize financial information systems." The requirement of the CFO as a position within federal agencies ensures a central point of accountability.

¹⁸ The reporting element associated with the GPRA allows for a **detailed** review of agency functions.

CITIZEN INITIATED OVERSIGHT

Along with the power granted by federal acts, oversight can occur through the action of citizen groups. One such example is watchdog groups. These citizen groups actively look for fraud, waste or abuse. Glazer *et al* notes (1989, p. 59) that watchdog groups typically take information provided by whistleblowers and use that information to "promote organizational accountability." According to Schumhl (2000, p.1), one of the most famous watchdog groups is Common Cause.¹⁹ Founded in 1970, Common Cause is a group that promotes openness in government. Hundreds of watchdog groups, like Common Cause, exist in America today.

The media, along with watchdog groups, serves an important oversight function. Robert Schumhl notes (2000, p. 3) that the media won a major victory during the Watergate scandal when the Supreme Court refused to allow Nixon to restrain the press. The media's role as the eye for the public has continued to increase since the Nixon decision and the government has reacted: "During the past three decades, as the news outlets have proliferated and become more aggressive, government **offices** and agencies at every level have become more sensitive to the public's perception of their work (Schumhl, 2000, p. 3)." Schumhl also notes (2000, p. 2) that the media often works in conjunction with whistleblowers and watchdog groups. Together with these groups, the media is able to expose potential problems to a wide audience.

¹⁹ Common Cause has helped initiate legislative reform regarding campaign finance and public accountability

Another method in which citizens assist with agency oversight is whistleblowers. According to Rosen, whistleblowers play an important role in exposing fraud, corruption and other potential public hazards. Because of this importance, laws have been enacted to protect whistleblowers. Myron Peretz Glazer and Penina Migdal Glazer (1989, p. 59) maintain that in order for whistleblowers to be successful in exposing agency problems, they must have "others to stand with them on the job." Additionally, for acts of resistance of this type to be effective, an outside objective body must review the evidence presented by the whistleblowers. Bill Miller notes (2002, p. A21) that the Whistleblower Protection Act, created in 1989, provides protection for federal employees that "want to expose misconduct, waste or abuse."²⁰

PRESIDENTIAL INITIATIVES

According to Rosen (1998, p. 159) one of the first Presidential initiatives to help improve government accountability was the President's Council on Integrity and Efficiency. Established in 1981, its mission was to eliminate waste, fraud and mismanagement from government and to develop management standards. Another area the Executive branch has been involved with oversight is the appointment of chairpersons of the commissions that govern federal agencies. According to Welborn (1977, p. 141), those same chairpersons will then keep the President informed of the agency's actions.

²⁰ The primary strength behind whistle blowing as an oversight measure is the access employees have to otherwise hidden damaging information.

Perhaps the most notable Presidential initiative, particularly in the last half-century, is the National Performance Review (NPR) developed during the Clinton Administration. Termed "reinventing government" the NPR has been praised as one of the most sweeping government reforms in American history (Rosen, 1998, p. 179). Rosen maintains (1998, p. 179) that the NPR has projected in excess of \$100 billion in savings as a result of the recommendations. According to Kettl (1994, preface), the NPR has also received a significant amount of criticism, a main critique being that the NPR "failed to focus on long-term issues" and that the NPR "failed to lay a foundation that would sustain the overall plan indefinitely." Kettl also notes (1994, preface) that there were several gaps left in the NPR, such as agencies downsizing before new and more efficient management principles were in place, leaving a deficiency."

THE COURTS

According to Barker (2000, p. 4), the legal interpreter and protector of the Constitution is the U.S. court system. While the courts do not act as support for Congress like the GAO or audit agencies, they do provide oversight at the federal level, separate from Congressional oversight. The courts have significant power to force agencies to change their behavior or even their operations. For example, if an issue of conduct or agency decision is questioned to the point that a citizen or group wishes to take legal action one avenue for the citizens to take is through the courts. At the same time the court processes themselves may

²¹ According to Kettl (1994, p. 53) the strength of the NPR is its comprehensive analysis of federal agencies.

uncover more problems within the agency in question. Barker also asserts (2000, p. 123) that some legislators and public administrators criticize court oversight actions. These legislators and administrators, according to Baker (2000, p. 122) believe that the courts overstep their bounds and that significant dependence on the court system "will encourage unique reliance on the courts and thereby weaken self-government through the democratic processes."²²

To this point, this chapter has presented the primary means for bureaucratic oversight as well as the main strengths of the reactionary and systematic methods used for oversight. The remainder of this chapter will focus on the specific components of effective oversight, as taken from the oversight methods discussed previously. The chapter concludes with the conceptual framework used to explore the Sunset Review process at the Texas Department of Housing and Community Affairs in fiscal years 2000 and 2001.

As noted previously, the definition used in this research is the result of the strengths of each method identified by the various authors presented in this chapter. Those strengths are:

Effective Oversight is Detailed

Several of the methods employed for oversight are successful, according to an analysis of the literature, because they allow for detailed examinations. Examples include casework by legislators and their staff, the budget or allocation

²² As Slaughter notes (1984, p. 3) the unique aspect of Sunset Laws and what has often been touted as Sunset's primary benefit, is the fact that all agencies that undergo Sunset must either be "reauthorized" or the agency automatically terminates. In other words, Sunset guarantees action. This is also the strength of the courts when oversight is a result of court action. The courts hold the power and authority to force agencies to change policy or actions.

process and the GAO or other auditing divisions. In each case the main strength of these particular forms of oversight is its ability to provide a detailed analysis of the agency being reviewed.²³

Effective Oversight is Comprehensive

Other methods for oversight, including those mentioned above, are effective because of their comprehensive nature. These methods would include investigations, hearings, committees and audits. Each of these methods contributes to comprehensive analysis of agency operations – and based on the literature it is the comprehensiveness of the methods that makes them effective.²⁴

Effective oversight contains some element of "in-person" evaluation

Along with comprehensiveness, hearings, committees, investigations and audits all have an "in-person" element. It is this element that allows for a greater understanding of agency operations.²⁵

Effective oversight results in legislative action

One of the primary strengths noted regarding the Courts as oversight was the fact that the decisions they render require change – not simply discussions. This was also noted as a strength of Sunset Review Legislation as oversight – Sunset Review requires legislative action to continue an agency, therefore some form of action is required.²⁶

²³ See for example Rosen (1998), Ogul (1976) and Slaughter (1984).

²⁴ See for example Rosen (1998) and Ogul (1976).

²⁵ See for example Rosen (1998), Ogul (1976) and Slaughter (1984)

²⁶ See for example Rosen (1998) and Slaughter (1984)

Conceptual Framework

Based on the oversight methods presented in this chapter, effective government oversight is comprised of four main components.

1. Effective oversight is detailed
2. Effective oversight is comprehensive
3. Effective oversight contains some element of "in-person" evaluation, and
4. Effect oversight results in legislative action.

Based on these components, and in order to conduct the preliminary assessment of the Sunset Review processed used at TDHCA in 2000-2001, the following working hypothesis is presented:

WH: The implementation of Sunset Review is effective.

This research uses working hypothesis, broken down into sub hypotheses for data analysis as a conceptual framework. As noted above, the literature has demonstrated four key elements to successful government oversight. The working hypothesis, from which the sub-hypotheses are derived, is taken from the literature and provided along with supporting scholarly writings in Table 2.1. The working hypothesis is linked with the sub-hypotheses in Table 2.2. The-sub-hypotheses are operationalized and presented in the Methodology Chapter.

Table 2.1

Working Hypothesis linked to literature – governmental oversight:

Working Hypothesis	Scholarly Support
The implementation of Sunset Review is effective.	(Rosen, 1998) (Ogul, 1976) (Slaughter, 1984)

Table 2.2

Working Hypothesis linked to sub-hypothesis:

WHa: Sunset implementation is detailed.	Connection to the Literature: Rosen (1998), Ogul (1976), and Slaughter (1984).
WHb: Sunset implementation is comprehensive.	Connection to the Literature: Rosen (1998) & Ogul (1976).
WHc: Sunset implementation contains an “in-person” element.	Connection to the Literature: Rosen (1998), Ogul (1976), and Slaughter (1984).
WHd: Sunset implementation results in legislative action.	Connection to the Literature: Rosen (1998), Ogul (1976), and Slaughter (1984).

Chapter Three

Research Setting

The purpose of this chapter is to describe the agency setting used to assess the implementation of the Sunset Review. The Texas Department of Housing and Community Affairs (TDHCA) underwent Sunset Review in fiscal years 2000 and 2001 and is used as the "case" in this study. This information is presented in two main sections; first an overview is presented of TDHCA as a whole, as well as each program within TDHCA. Next the Sunset Review Legislation and process is presented along with the composition of the Sunset Commission during the 2001-2002 fiscal years.²⁷

TDHCA Organization and Executive Management

TDHCA is the state agency primarily responsible for the development, expansion and rehabilitation of affordable housing and related activities. According to TDHCA's 1999-2003 Strategic Plan, the mission of TDHCA is to "help Texans achieve an improved quality of life through the development of better communities." The funds administered by TDHCA are primarily federal making TDHCA a "pass through" or "funding" agency. The majority of TDHCA's programs award funds to nonprofit and for profit organizations. Housing Authorities, units of local government and counties for the creation of affordable

²⁷ *All information presented in this chapter is taken from the 2000 State of Texas Low Income Housing Plan and Annual Report (TDHCA), the TDHCA Sunset Review Self-Evaluation, and the Guide to the Texas Sunset Process (Sunset Commission).*

housing. TDHCA was created in 1991 through the merger of two state agencies, the Texas Housing Agency and the Texas Department of Community Affairs.

A nine-member board, who along with the Board Chairperson, is appointed by the Governor, governs TDHCA. The Board is responsible for appointing an Executive Director to carry out the policy directives of the Board, and an internal auditor who reports directly to the board.²⁸ The Executive Director is responsible for all Departments of the agency, with each division having either a Program Manager or a Department Director. The programs outlined in the next several sections of this chapter, make up the majority of the 391 full-time positions allotted to the agency. Other departments, typical to most state agencies include Human Resources, Finance and Accounting, Government Relations (Communications and Governmental Liaisons) and the Legal Division. TDHCA also has a Housing Resource Center/Strategic Planning Department, as well as a Compliance Department.²⁹

HOME Investment Partnerships Program³⁰

The State of Texas receives funding annually from the U.S. Department of Housing and Urban Development (HUD) for several programs, one of which is the HOME program. TDHCA administers the HOME program for the State of

²⁸ At the time of the Sunset Review, the various Board places were subject to particular experience or job requirements; for example, one member of the Board had to come from a housing construction background.

²⁹ The Compliance Department is responsible for monitoring current program performance as well as affordable housing projects that are complete and in use.

³⁰ The Cranston-Gonzales Act, 42 USC Sec., created the HOME program 12701 et. seq. and regulations at 24 CFR Part 92. Texas first received HOME funds in 1992.

Texas on behalf of HUD.³¹ For the 2000-2001 fiscal years the State of Texas was provided with more than \$70 million for the HOME program. Eligible activities under the HOME program include owner-occupied housing rehabilitation and reconstruction, homebuyer down payment and closing costs assistance, rental housing development, tenant-based rental assistance, and homeownership development. Funds under the HOME program are distributed after a statewide or regional competitive application process.³²

Housing Trust Fund

The Housing Trust Fund (HTF) was created by the 72nd Legislature, Senate Bill **546** and is the only state authorized affordable housing program.³³ The bulk of the HTF budget is used for the creation of affordable housing, which may be either new construction or rehabilitation of single family or multifamily housing.³⁴ This activity is known as the HTF Development Fund and is provided in conjunction with the State Energy Conservation Office grant funds for energy efficient features. The HTF also provides funds for capacity building efforts for nonprofit organizations and predevelopment loan funds for nonprofit housing providers.³⁵

In the last two biennium, the HTF has also funded certain special initiatives which include the Texas Youthworks Program, the Texas Bootstrap

³¹ HOME funds are distributed by TDHCA to Units of Local Government, Public Housing Agencies, Community Housing Development Organizations as well as other non-profit and for-profit organizations.

³² Scoring criteria used to rank applications is developed annually depending on TDHCA priorities as directed by the Texas Legislature.

³³ All of the other housing programs at TDHCA are federally funded.

³⁴ Acquisition of existing housing for the purposes of making that housing affordable is also eligible.

³⁵ 10% per year is set aside for these activities.

Program, Homebuyer "Train the Trainer" Workshops³⁶ as well as modification of the Development scoring process to target funds to rural areas, extremely low income individuals or families and persons with special needs.³⁷

Section 8 Housing Assistance Payments

The Section 8 program is comprised of HUD funds and administered by TDHCA.³⁸ All households receiving Section 8 assistance may not earn more than 50% of the area median income. The program provides rent subsidy in the form of vouchers that residents in turn use along with their own funds to pay rent at any participating housing project.

Low Income Housing Tax Credit Program (LIHTC)³⁹

Funds for this program are provided through the U.S. Treasury Department and governed by the Internal Revenue Code. Funds are provided based on \$1.25 per capita of the state population. Tax credits are awarded to affordable housing developers who then sell the credits to private investors. The private investors may use the credits as a dollar for dollar reduction in their federal tax liability. The developers are able to use the funds gained from the

³⁶ The Texas Bootstrap Loan program is conducted by the Office of Colonias Initiatives and provides funds to residents of the states colonias for the construction of affordable housing. The participants of this program must provide a minimum of 60 percent of the construction labor. The Texas Youthworks program provides program funds to nonprofit organizations that utilize at-risk youth in the construction of affordable housing. The youth, in turn, receive specialized job training and assistance in obtaining their high school diploma or GED.

³⁷ A person with special needs is defined as persons with disabilities, persons with HIV/AIDS, elderly persons, frail elderly persons, persons with alcohol and/or drug addictions, victims of domestic violence and public housing residents.

³⁸ TDHCA partners with Community Action Agencies for the local distribution of the vouchers.

³⁹ The LIHTC program has been one of TDHCA's most controversial programs and is the focus of a substantial amount of changes addressed in the Sunset Review of TDHCA.

sale of the tax credits to reduce the mortgage liability of the affordable housing property. The result is a housing development that can then offer below market rents to eligible income groups.

The LIHTC is structured and regulated through the Qualified Allocation Plan (QAP). The QAP is adopted annually after a thorough public hearing process. Eligible developments include new construction or substantial rehabilitation of affordable rental housing. To qualify, the project must either have twenty percent or more of the units affordable to individuals earning 50% or less of the area median family income, or forty percent of the units affordable to individuals earning 60% or less of the area median family income.⁴⁰

Tax credits are awarded on a competitive basis with preference given to areas of greatest need according to the regional allocation formula (RAF).⁴¹ Applications are accepted during a 45-day period and each application must meet a set of threshold criteria. Those applications that pass threshold are then scored based on the scoring model outlined in the approved QAP. Applications that score high enough to be considered for recommendation for funding are underwritten for financial feasibility. The final step in the application process is a staff presentation of recommended projects to the TDHCA Board of Directors for approval.⁴²

⁴⁰ The units **must** be both rent restricted and occupied by the eligible income persons.

⁴¹ The RAF is developed annually by the Housing Resource Center and is based on current demographic data for each region as well as other sources of funding available to each region.

⁴² All housing programs at TDHCA follow a very similar process, however given the complicated nature of the tax credit program; more rules apply to the LIHTC application process.

First Time Homebuyer (FTH) Program

The FTH Program provides assistance to low and moderate-income individuals and families through below market interest mortgages along with down payment assistance.⁴³ Tax-exempt and Taxable Mortgage Revenue Bonds make up the funding source for this program. Participants in this program must have a gross household income that does not exceed 115% of the area median family income. Individuals or families that earn less than 80% of the area median family income will also be eligible for down payment assistance in conjunction with the mortgage assistance. Finally, participants must have adequate income and credit history to qualify for a traditional mortgage. Purchase price of the home may not exceed maximum price limits for the given area.

Funds are allocated based on regional need and distributed via local participating lenders. Restrictions for this program are governed by the Internal Revenue Service regulations, which require a recapture tax on any profit realized on the sale of the home within the first nine years of ownership. Down payment assistance provided in conjunction with the FTH Program is a grant and no repayment is required. This policy differs in the Down Payment Assistance Program, which places a second lien mortgage on the home that must be repaid upon the sale, refinancing, lease or payoff of the first lien mortgage.

⁴³ The program area responsible for the FTH Program, the Single Family Bond Division, also operates a Down Payment Assistance (DPA) program independent of the FTH program. With the DPA program the homebuyers will utilize a traditional source of financing for the purchase of the home, but will receive assistance from TDHCA with down payment costs up to \$10,000. Income qualifications are the same as with the FTH Program. The DPA Program uses the same source of funding as the FTH Program in addition to HOME funds.

Multifamily Bond Program

Similar to the First Time Homebuyer Program, the Multifamily Bond Program (MBP) uses Taxable and Tax Exempt Mortgage Revenue Bonds as its funding source. Funds are provided to nonprofit and for-profit developers for the creation of affordable multifamily housing. Developers must set aside at least 20 percent of the units for households earning 50 percent or less of the area median income, or **40** percent of the units for households earning 60 percent or less of area median income. Participants in this program must also offer tenant programs to residents of their developments.

Mortgage Family Bonds may be issued through two different authorities based on the governing rules in the Internal Revenue Code. One authority allows for multifamily projects subject to the state's private activity volume cap. This is done when TDHCA along with other bond issuers enter a lottery conducted by the Texas Bond Review Board. The other authority allows for the issuance for projects that are entirely owned by nonprofit organizations.⁴⁴ This type of authority is not subject to the private activity volume cap. This type of issuance is not competitive; applications are received on an ongoing basis throughout the fiscal year.

⁴⁴ For those projects issued under the nonprofit authority, at least 75% of the units must be occupied by households earning 80% or less of the area median income.

Community Development Block Grant Program (CDBG)

All funds for the CDBG Program are federal funds provided by HUD. Funds are allocated to non-entitlement cities with populations of less than 50,000 and counties with populations of less than 200,000.⁴⁵ The CDBG program is primarily used as an infrastructure development fund. Eligible activities include sanitary sewer water development, disaster relief, urgent need projects, housing⁴⁶, drainage and flood control, streets and economic development. For housing projects, CDBG funds are used to provide necessary infrastructure for the development. Housing Rehabilitation is allowable under the CDBG program for both owner occupied and renter occupied housing.

Office of Colonia Initiatives (OCI)

The 2000 State Low Income Housing Plan and Annual Report notes that colonias, for the OCI's purposes are described as subdivisions in unincorporated areas within 150 miles of the Texas-Mexico border. These areas, despite the growing populations, lack adequate sewer and waste water services. According to the Texas Water Development Board, Texas has more than 1,500 colonias that are home to more than 400,000 individuals. The OCI provides funds for housing finance, infrastructure and self-help centers. The OCI is also responsible for overseeing the implementation of legislation regarding the

⁴⁵ Once a community or county qualifies as an entitlement city or county, HUD provides CDHG funds directly and that community or county is no longer eligible to apply to TDHCA for CDBG funds.

⁴⁶ New housing construction is not allowed under the CDBG program with the exception of special needs units for persons with a disability.

colonias. The OCI receives funding from a variety of sources including the state HTF program as well as the federal CDBG and HOME programs.⁴⁷

Community Services Block Grant (CSBG) Program

Funds for the CSBG Program are provided by the U.S. Department of Health and Human Services. TDHCA, through the CSBG program, provides grants to Community Action Agencies who in turn provide local assistance to individuals at or below the federal poverty level. Some of the services provided by Community Action Agencies with these funds include access to childcare, transportation, job training, health and human services for children, families and elderly, as well as housing assistance and substance abuse prevention.⁴⁸

Emergency Shelter Grants Program (ESGP)

Like the CSBG Program, the ESGP receives its funding for the U.S. Department of Health and Human Services. Funds are provided to local agencies for assistance to homeless persons and persons threatened with homelessness. Some of the services include assistance in locating and obtaining permanent housing, nutrition education, assistance with job resources and childcare, and developing and implementing homeless prevention programs.⁴⁹

⁴⁷ Although the OCI program is allocated General Revenue funds for program administration, no funds are directly allocated by the state legislature for the OCI programs.

⁴⁸ A small percentage of CSBG funds (five percent or less) are utilized specifically for migrant seasonal farm workers and Native Americans.

⁴⁹ TDHCA, in addition to providing grants to help homeless persons, also participates in the Texas Interagency Council for the Homeless. In this regard TDHCA assists with surveying and evaluating services for the homeless statewide.

Emergency **Nutrition/Temporary** Emergency Relief Program Community Food and Nutrition

The Emergency **Nutrition/Temporary** Emergency Relief Program is funded through the State of Texas' General Revenue and oil overcharge funds. Funds are provided to county government systems or to nonprofit organizations for the purpose of providing assistance with food, safety or energy related expenses of an emergency nature.⁵⁰ The Community Food and Nutrition program is funded by the U.S. Department of Health and Human Services. Funds are awarded to units of local government and nonprofit organizations on a grant basis. These awardees use the funds to educate the public on nutrition issues and assist with bringing additional food sources to low income neighborhoods.⁵¹

Comprehensive Energy Assistance Program (CEAP)

Funds for this program come from the U.S. Department of Health and Human Services' Low Income Home Energy Assistance Program (LIHEAP) grant. The CEAP provides funds to units of local government, nonprofit organizations and Community Action Agencies to assist families or individuals at or below 50% of the area median income with energy related issues. Several options are available through the CEAP; funds may be used as a co-payment for families with utility bills too high to be affordable, rehabilitation that either replaces or repairs inefficient heating and cooling systems, assistance during an

⁵⁰ These categories include food, housing, medical services, clothing, utility assistance and transportation.

⁵¹ **Hunters for the Hungry** is one special initiative managed by TDHCA that allows hunters to donate their game that is then provided to families in need of additional food.

energy crisis, and special assistance to elderly or disabled persons with higher than average utility bills at various times of the year. More than \$20,000,000 is spent annually in Texas for the CEAP.

Weatherization Assistance Program (WAP)

Funding sources for the WAP include the U.S. Department of Energy's Weatherization Assistance Program for Low-Income Persons grant, the U.S. Department of Health and Human Services Low Income Home Energy Assistance Program (LIHEAP) grant and the State's Energy Conservation Office of Oil Overcharge funds. Similar to the CEAP, the TDHCA Weatherization Assistance Program provides educational opportunities for lowering energy costs and promotes energy saving measures. However, while the CEAP assists with utility payments, the Weatherization Assistance Program provides funds to households at or below 50% of the area median income for the installation of energy saving measures and rehabilitation of residential structures to be more energy efficient.

Local Government Assistance

Funds for this program come directly from the State of Texas in the form of General Revenue. The purpose of the Local Government program is to provide training to local governments and local officials on issues such as public services, financial planning, fire services, annexation, incorporation, personnel management, planning and zoning and resource development. Assistance

through this program is primarily accomplished through workshops and on site trainings as well as special publications on relevant issues. Resources of this program are primarily focused in rural areas and communities with less than 10,000 in population.

Manufactured Housing

Funds for this program are provided by the U.S. Department of Housing and Urban Development in addition to state fees collected from consumers and license holders, state revenue and interest from the Home Owners' Recovery Fund (HORF). The primary responsibility of the Manufactured Housing division is to ensure that all manufactured homes in Texas are built to code and installed correctly. The division also ensures that consumers, if dissatisfied, are provided with a fair means of resolution for their manufactured housing issues. Another duty of the Manufactured Housing division is to issue manufactured home titles as well as monitor the industry for compliance with all applicable state and federal regulations.

Sunset Review Process

An important aspect of the research setting is the oversight method explored in this paper. The Texas Sunset Legislation is an extensive process that involves numerous levels of official involvement. Information for this section is taken from the Guide to the Texas Sunset Process, a publication provided by the Texas Sunset Commission.

Essentials of the Sunset Review process

The fundamental component of the Sunset Review process is the question of whether or not an agency needs to be continued. Established in August of 1977, the Texas Sunset Act requires that state agencies undergo review once every 12 years.⁵² According to the Guide, the primary opportunity created by the Sunset Review process is for legislators to evaluate the effectiveness of agencies and make "fundamental changes" if needed. So while many critics argue that the purpose of Sunset is merely to abolish unnecessary agencies⁵³, the Sunset Guide is straightforward in its role as an oversight method.

The Guide notes that the review process groups together agencies by function to facilitate a more efficient and thorough review. Anywhere from 20 to 30 agencies may be reviewed during any given legislative session. According to the Guide, the review process allows the legislature to "further strengthen the accountability of state agencies." While the Sunset Commission is made up of members of the legislature, staff of the Sunset Commission is made up of professionals from diverse backgrounds. Sunset Commission's staff conducts the initial review of each agency. While traditionally Sunset staff has had accounting backgrounds, an effort to hire staff with more diverse education and experience is a recent trend.⁵⁴ According to the Commission, this effort to hire staff with a wider range of experience is a reflection of the interest the Commission has in ensuring efficiency in all areas of an agency's performance.

⁵² Nor all agencies are required to participate in the Sunset Review process: universities and courts exempt from the sunset process. Constitutionally created agencies like the Board of Pardons and Paroles are required to participate in the sunset review process, but not subject to abolition.

⁵³ See the Sunset Review section of the Literature Review Chapter

⁵⁴ According to the Sunset Commission's website

The Review Process

The review process is made up of several steps, the beginning of which is a Self-Evaluation conducted by the agency under review. The Sunset staff must become very familiar with all aspects of an agency's functions in a relatively short amount of time;⁵⁵ to do this, the Sunset staff works closely with the agency staff to educate themselves on the programs, policies and activities of the agency. The steps of the review process are: 1) Legislature sets the review time frame for each agency; 2) Sunset staff evaluates the agency, develops recommendations and publishes a staff report;⁵⁶ 3) Sunset Commission conducts a public hearing;⁵⁷ 4) Sunset Commission deliberates and decides on recommendations to present to the Legislature; 5) A Sunset bill is filed with the Legislature. At this point the agency is either continued with modifications or other legislative directives, or it is abolished. If the agency is abolished, a one-year "wind down" period begins to allow agency staff to conclude any outstanding agency business.

Across the Board Recommendations (ATB)

ATBs are standard recommendations that the Sunset staff and Commission make on each agency regardless of agency performance. The purpose of the ATBs is to "prevent problems from occurring instead of reacting to problems after the fact." While not a part of the original Sunset Legislation

⁵⁵ According to the Guide, the review process lasts anywhere from 3 to 8 months.

⁵⁶ This process includes the agency's Self-Evaluation, agency and Sunset staff interviews, Sunset staff meetings with interest groups, affected agencies and other interested members of the public.

⁵⁷ During the hearing the Commission receives staff recommendations, agency responses to the recommendations or other issues and public testimony.

enacted in 1977, the ATBs were developed after the Commission had conducted more than 300 reviews and identified recurring problems. Most of the ATBs deal with the governing board of the agency in question; issues such as board appointments, board training and separation of powers between the board and agency staff are addressed. Another area covered substantially by the ATBs is public participation and input. The primary goal of the ATBs is to ensure that each state agency conducts business in an arena that is "transparent" to the public with the most capable board governing agency outcome.

Texas Sunset History

The first Sunset Reviews in Texas were conducted in 1978. A fiscal impact study was conducted on the Sunset process taking figures from reviews conducted from 1982 through 2001. The impact study estimated that more than \$719.9 million of state funds have been saved during that time with an expenditure of only \$16.9 million for the Sunset Review process. Since Sunset was enacted in Texas, 317 agencies have been reviewed with 258, or 81%, of those agencies being continued. See Table 3.1 for a complete history of Sunset Commission Action. Based on the reviews conducted since the inception of the Sunset Legislation, for every dollar the State spends to conduct the Sunset Reviews, it saves \$42.50.

Table 3.1

History of Sunset Commission Action – 1979 to 2001*														
Legislative Action	1979 66 th	1981 67 th	1983 68 th	1985 69 th	1987 70 th	1989 71 st	1991 72 nd	1993 73 rd	1995 74 th	1997 75 th	1999 76 th	2001 77 th	Total	Percent
Agencies Continued	12	22	29	24	18	25	23	27	16	19	22	21	258	81%
Agencies Abolished Outright	8	2	3	6	1	3	3	1	0	0	1	1	29	9%
Agencies Abolished & Functions Transferred	1	3	0	0	1	2	3	1	2	2	0	0	15	5%
Agencies Combined	4	1	0	0	0	0	1	2	0	0	2	1	11	3%
Agencies Separated	1	0	0	1	0	0	0	0	0	0	0	0	2	1%
Agencies Reviewed	26	28	32	31	20	30	30	31	18	21	25	25**	317	

* Chart provided by the Sunset Commission Department.

** Some agencies reviewed were not subject to Continuation or abolishment.

Sunset Commission **Members**

The Sunset Advisory Commission is made up of 10-members; 4 members from the Texas Senate, 4 members from the Texas House, one public member appointed by the Lieutenant Governor and one public member appointed by the Speaker. Chair responsibilities for the Commission rotate between the House and Senate. The Commission appoints a Director who is then responsible for all staff and management for the Sunset Reviews. The Sunset Commission members serving during the TDHCA sunset review were:

77th Legislature 2001

Senator Chris Harris, Vice Chair
 Senator Judith Zaffirini
 Senator Eddie Lucio, Jr.
 Senator David Sibley
 Dr. Tim Roth, Public Member

Representative Fred Bosse, Chair
 Representative Brian McCall
 Representative Warren Chisum
 Representative Pete Gallego
 William M. Jeter III, Public Member

TDHCA Sunset Review Process

The Sunset Review process at TDHCA began in June of 1999 with the creation of the Self-Evaluation Report by TDHCA staff. The Self-Evaluation, totaling more than 250 pages and covering every aspect of TDHCA, was submitted to the Sunset Advisory Commission in August of 1999. Ginny McKay and Lisa Mogil of the Sunset staff were assigned primary responsibility for the TDHCA Sunset Review. From September 1999 to April 2000, the Sunset staff reviewed the TDHCA Self-Evaluation, conducted on-site interviews with TDHCA staff, held public hearings regarding TDHCA and its policies and interviewed constituencies and stakeholders of TDHCA. At the conclusion of this eight-month period, the Sunset staff presented their report to the Sunset Commission in May of 2000. On May 17 and 18th, 2000, the Sunset Commission received testimony from the Sunset staff and TDHCA Board and staff. During this time the Sunset Commission also received public comment regarding TDHCA and its policies. The Sunset Commission took testimony again on June 20, 2000 and rendered its final recommendation to the 77th Legislature on January 10, 2001. TDHCA staff along with Sunset staff was called upon during various points during the 77th Legislative Session as Senate Bill 322⁵⁸ was being drafted. Senate Bill 322 was signed into law by Governor Rick Perry on June 16, 2001 and became effective September 1, 2001.

⁵⁸ SB 322 is the TDHCA Sunset Legislation.

Significant Impacts of **SB 322**

TDHCA was placed on a two-year probationary period after which the Sunset Commission will make a determination whether TDHCA has implemented the Sunset recommendations. The TDHCA Board of Directors was restructured removing the designated place seats that represented specific interests and adding mandatory training for all new Board members. Public reporting requirements were increased to provide greater detailed information to citizens and interests groups. The application process for all of TDHCA's programs was simplified with emphasis placed on ensuring prior applicant compliance with TDHCA rules and other state laws. The Community Services Division along with the Local Government Division were removed from TDHCA and placed in the newly formed Office of Rural Community Affairs. Requirements were added to each program to encourage the preservation of existing affordable housing stock and to target and maintain "at-risk" affordable housing stock.⁵⁹ All of the programs, in particular the Low Income Housing Tax Credit Program, were modified to give award preference to nonprofit affordable housing developers.

⁵⁹ "At-risk" refers to affordable housing that has reached the end of its mandatory affordability period and may begin to charge market rate rents.

Chapter Four

Methodology

This chapter presents the methodology used to explore the effectiveness of the implementation of the Sunset Review at the Texas Department of Housing and Community Affairs (TDHCA). As derived from the scholarly literature, and presented in the Literature Review Chapter, this research is guided by four working hypotheses:

- Effective oversight is detailed

Effective oversight is comprehensive

Effective oversight contains an "in person" element

Effective oversight results in legislative action

The hypothesis developed in the literature review is operationalized taking into account the case (TDHCA) used for data collection.

The purpose of this research is to explore the subject of government oversight; particularly what constitutes effective government oversight. After a review of the scholarly literature, it was determined that effective government oversight contains some aspect of the aforementioned sub-working hypotheses. What also became apparent during the literature review was that although many public administrators, politicians, and citizens regard oversight as an important aspect of government, relatively little study has been done on the subject (Ogul, 1976, p. 9). According to Shields, exploratory research "is associated with

problems that are in their early stages." Shields goes on to note that the use of working hypothesis, along with sub-working hypothesis is the most appropriate conceptual framework for exploratory research: "In practice, most students use broad categories to classify working hypothesis (the categories are usually drawn from the literature and a meta framework) and then a series of sub hypotheses with in the broad category are used to connect to the data or evidence (the link to the experience) (1998, p. 215-216)." Based on this guidance this research is exploratory in nature and uses a working hypothesis and sub-working hypotheses as its conceptual framework. The remainder of this chapter provides the specific methods used to test each sub-hypothesis along with the strengths and weaknesses of each method. The chapter concludes with a table that links the sub-working hypothesis to the methods utilized.

Methods Utilized

A case study of TDHCA will be the basis for the exploration of the implementation of the Sunset Review process used at TDHCA in 2000-2001. According to Robert Yin, case studies are useful when "the investigator has little control over the events, and when the focus is on a contemporary phenomenon within some real-life context" (1994, p. 1). By selecting a case for study, in this situation the implementation of the Sunset Review process at TDHCA, evidence may be collected via this case and used to reach a conclusion.

Document Analysis

The following is a list of documents including to be analyzed. Also included is a description and explanation of the document and its specific value to this research. Document analysis is a valuable source of information, particularly given the sensitive nature of government oversight. The documents listed here are highly accessible given their public status and less obtrusive than other methods to obtain the same information and efficient in terms of time on task. According to Babbie, this is the primary strength of document analysis (1998, p. 329-331). Babbie also notes that the weakness of document analysis lies in the risk of inaccurate records or bias among the documents. To avoid these weaknesses Babbie recommends verifying the records with a secondary source⁶⁰ as well as utilizing a variety of documents from different sources (1998, p. 329-331). The documents analyzed were developed by three primary sources, TDHCA, the Sunset Review staff and the Sunset Commission⁶¹.

Documents:

1. Summary of Sunset Legislation of the 77th Legislature:

This document provides information specific to the legislation passed as part of the sunset review being assessed with this research. This document details the changes made to TDHCA as a result of the sunset review and demonstrates the legislative action portion of the conceptual framework.

⁶⁰ The second analysis method, interviews, will serve as the verifying source as well as the other safe guards mentioned in this section.

⁶¹ The Sunset Commission is credited with the public hearing transcripts as well as the final legislation. The sunset staff is credited with both staff reports submitted to the Sunset Commission.

2. Sunset Report to the 77th Legislature:

This document provides information specific to the review of TDHCA and also demonstrates a link between the Sunset Review recommendations and the actual legislation passed as a result of those recommendations. This information provides evidence regarding the detailed and comprehensive nature of the Sunset Review process as well as the "in-person" element of Sunset.

3. Guide to the Texas Sunset Review Process

This document provides information specific to the process used in all Sunset Reviews, which logically would include the review conducted at TDHCA. This information provides evidence regarding the detailed and comprehensive nature of Sunset as well as the "in-person" element of Sunset.

4. Sunset Public Hearing recordings

As with the previous documents, these recordings provide information on the nature of the Sunset Review along with evidence regarding the "in-person" aspect of Sunset Review, as well as legislative action at the conclusion of the hearings.

5. Senate Bill 322

This document provides evidence regarding legislative action associated with Sunset.

6. TDHCA Sunset Self-Evaluation

As this is an important part of the Sunset Review, it provides evidence about the level of detail involved in the review and the comprehensiveness of the review.

7. TDHCA Senate Bill 322 Implementation Chart, TDHCA Sunset Conference and TDHCA Sunset Bill Highlights

Each of these documents provides evidence of legislative action. The TDHCA Senate Bill 322 Implementation Chart as well as the TDHCA Sunset Conference provides evidence of the legislative action taking effect.

Interviews

In addition to the case study and document analysis, interviews will contribute to the research methodology used to collect data. The strengths of interviews, according to Babbie, are that they allow the researcher to analyze information that is not easily quantified (1998, p. 280), such as how detailed or comprehensive a given procedure may be. Babbie also notes that interviews, commonly classified as field research, are also beneficial because of their flexibility as well as their ability to "study subtle nuances of attitudes and behaviors" (1998, p. 303). According to Babbie the main weakness of interviews is bias on the part of the person interviewed. To avoid this bias, Babbie recommends that the researcher avoid asking questions that lead the interviewee to specific answers or bias later answers (1998, p. 290). A further precaution is taken with the interviews associated with this research; each interviewee is asked not to discuss the questions or responses with the other participants.

Additionally, the interviewees are not told of the working hypotheses or the research purpose until after the interview concludes.

The interviews consist of staff at the mid-management level and higher of the Texas Department of Housing and Community Affairs. The staff selected for interviews had direct involvement with both the Sunset Review process and the implementation of the Sunset Legislation. In an additional effort to avoid bias, all data obtained via interviews is corroborated with data from the document analysis. A more complete depiction of the events surrounding the Sunset process and implementation is expected as a result of this corroboration.

Working Sub Hypotheses Linked to the Research Methods

The Literature Review Chapter presented the connection between the working hypothesis and the sub working hypotheses to the literature in Tables 2.1 and 2.2. Table 4.1 presents the sub hypotheses linked to the research methods described in this chapter.

Table 4.1

Sub-hypotheses operationalized:

<p>WHa: The Sunset Review process was detailed</p>	<p>Interview Questions:</p> <ul style="list-style-type: none"> • Were you provided with a detailed guide to help you conduct the self-evaluation? • What areas of your program did you examine for the self-evaluation? * What were the significant findings of your division's self-evaluation? • Do you feel the self-
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	<p>evaluation was detailed enough to provide a clear picture of your division's functions and accomplishments? If no. what do you feel was lacking?</p> <ul style="list-style-type: none"> • Did the sunset staff work with TDHCA staff to formulate their review? How involved would you say the sunset staff was with the TDHCA staff? • What types of questions did the sunset staff ask of you or your staff during the review? • Considering the sunset staff's evaluation, how detailed would you describe it as? <p>Documents 2, 3, and 6.</p>
<p>WHb:</p> <p>The Sunset Review process was comprehensive.</p>	<p>Interview questions:</p> <ul style="list-style-type: none"> ▪ What areas of your program did you examine for the self-evaluation? ▪ What were the significant findings of your division's self-evaluation? • Did the sunset staff work with TDHCA staff to formulate their review? How involved would you say the sunset staff was with the TDHCA staff? ▪ Did the sunset staff seem knowledgeable about your division's functions? If not, do you feel that they familiarized themselves enough to render a fair assessment? • How comprehensive would you say the sunset staff's evaluation was? <p>Documents 2, 3, and 6.</p>
<p>WHc:</p> <p>The Sunset Review process contained an "in-person" element.</p>	<p>Interview questions:</p> <ul style="list-style-type: none"> ▪ Did you participate in the Sunset Review Self-Evaluation? If so, what was your role in that regard? • Were you involved with the

	<p>sunset commission staff's review? If so, what was your role in that regard?</p> <ul style="list-style-type: none">• Did the sunset staff work with TDHCA staff to formulate their review? How involved would you say the sunset staff was with the TDHCA staff?▪ Did the sunset staff seem knowledgeable about your division's functions? If not, do you feel that they familiarized themselves enough to render a fair assessment?• Overall, please describe you and your division's experience with the sunset staff's on-site evaluation of TDHCA.• To what extent do you feel the sunset staff's evaluation and the following hearings contained personal involvement on the part of sunset staff and legislators? <p>Documents 2, 3, and 4.</p>
<p>WHD:</p> <p>The Sunset Review Process resulted in legislative action.</p>	<p>Interview question:</p> <ul style="list-style-type: none">• To your knowledge, did the sunset evaluation process result in legislative action. and based on your observations, what impact has that action had on TDHCA? <p>Documents 1, 4, 5, and 7.</p>

Chapter Five

Results

The purpose of this chapter is to present the results of the document analysis and interviews exploring the Sunset Review process conducted at the Texas Department of Housing and Community Affairs (TDHCA) during fiscal years 2000-2001. To reiterate, the purpose of this research is to explore the Sunset Review process, and to assess its effectiveness in relation to suggestions made in the scholarly literature. From the scholarly literature available, a working hypothesis was developed along with four sub-hypotheses specific to the Sunset Review process at TDHCA. A case study of the implementation of the Sunset Review process at TDHCA provided evidence related to the sub hypotheses.

This chapter is organized in four sections, one section for each sub hypothesis. Each section provides evidence from the document analysis and interviews that either support or reject the sub hypothesis. As noted in the Methodology Chapter, the documents analyzed for each sub hypotheses have been selected based on the greatest potential for obtaining data that will support or reject each sub hypotheses. Therefore not all documents will be analyzed for each sub hypothesis, only those documents or interview questions relevant to the

sub hypothesis in question. Due to the scope of this paper and in an effort to present the material in a concise and clear manner, a limited number of instances in which the hypotheses are either supported or rejected will be provided. Given the substantial size of the documents analyzed for this research, it is highly likely that more examples of the evidence either supporting or rejecting the hypotheses are available in the data, however, to avoid redundancy, a limited number of examples is presented.

WHa: The Sunset Review process is detailed.

To ensure a uniform and concise analysis in determining the supportability of WHa, the following definition for "detailed" has been taken from Webster's Revised Unabridged Dictionary, 1913:

Detailed – to relate in particulars; to report minutely and distinctly.

The first document analyzed, the Report to the 77th Legislature by the Sunset Commission staff, is the staff's recommendations specific to TDHCA. The report provides several detailed sections; a "key facts" section comprised of important information regarding TDHCA's structure and accomplishments, a "recommendation" section that outlines all of the recommendations in summary form, and finally an issue by issue presentation of the staff's findings. The most detailed aspect of the Report by the Commission staff is the presentation of the issues discovered during the review. Each issue is first stated in a very concise

manner; next the example is explained with a list of key findings that provide particular elements related to the issue; and finally, the report provides a step-by-step recommendation for the correction of the problem at hand.⁶² From this analysis it is evident that the Sunset Report meets this research's definition of "detailed."

The second document analyzed, the *Guide to the Texas Sunset Review Process*, does not relate specifically to TDHCA, but explains the process used at TDHCA. The *Guide* outlines the Across the Board Recommendations (ATBs) that are made to each state agency, regardless of the other results of the review. The ATBs meet this research's definition of detailed in that they deal with specific and particular issues related to each agency's Board of Directors including Board makeup, Board training, Board functions, Board-staff relations and responsibilities, and Board conduct and ethical considerations.

Another element of the *Guide* is the amount and type of public participation in the Sunset Review process. The *Guide* demonstrates that individuals and organizations have a variety of methods to participate in the process including speaking directly with staff, reviewing public documents, testifying at public hearings and taking part in the Legislative Session. From this information it is clear that the public participation aspect of the Sunset Review process allows individuals and organizations to obtain "distinct" and "minute" information on the agency in question.

A third example of the detailed nature of the Sunset Review process provided by the *Guide* is the information provided on the Commission staffs

⁶² The Report also provides the aforementioned Across the Board Recommendations

coordination with other oversight agencies. The Guide notes that the Commission staff works with the State Auditor's Office, the Legislative Budget Board, the Comptroller of Public Accounts, the Governor's Office of Budget and Planning and other Legislative Committees. According to the Guide, in their work with these other entities, the Commission's staff reviews fiscal and legal compliance records, performance reports and strategic plans, cost savings reports, operational improvements, opportunities for enhanced customer service, and coordination with the Office of the Governor and Legislative committees. The particulars related in these correspondences is additional evidence of the detailed nature of the Sunset Review Process as analyzed in the Guide.

The third document analyzed is the *TDHCA* Self-Evaluation. The Self-Evaluation is more than 250 pages and contains information on all aspects of TDHCA. Of all of the documents analyzed in this research, the *TDHCA* Self-Evaluation provides the greatest detail. This appears to be the case for two reasons; first, the Sunset Commission provides each agency under review with a questionnaire to guide the self-evaluation process. The questionnaire requires the agency under review to provide a significant amount of data. Secondly, the Self-Evaluation is the agency's first and primary opportunity to document successes, potential problems, and to educate the Sunset staff on a wide variety of programs, issues and policies. Given the significance of the Sunset Review process, it is in the agency's best interest to provide the most detailed information available to allow for as accurate a picture as possible.

Specific examples of the detail in the Self-Evaluation, based on the working definition for this sub hypothesis, include a presentation of each division of the agency including the division's functions and organization, a chart listing all relevant legislation tied to each division, and an outline of specific programs and funding for those programs. Also included in the Self-Evaluation is a performance evaluation in which TDHCA provides specifics related to eleven significant achievements, precise explanations of the process used for the performance review, charts listing all complaints submitted to the agency along with the complaint resolution, charts listing all relevant legislation since the agency's creation, and finally specifics surrounding all issues identified via the performance review along with the agency's proposed resolutions to those issues.

The final analysis conducted for sub hypothesis WHa dealt with the five interviews conducted with TDHCA management staff. Seven of the fifteen questions were designed to stimulate discussion on the detailed nature of the Sunset Review Process. All five respondents, when asked various questions regarding the detailed nature of the Self-Evaluation, the Sunset Commission's staff report, and the final Sunset Legislation, responded that each of the processes allowed for a very detailed presentation of the relevant information.⁶³ Three of the respondents expressed concern that the detail of the final legislation may lead to conflict when the legislation is implemented. The respondents based

⁶³ Another issue that was discovered during the interviews was that two of the TDHCA staff members stated that they felt the Self-Evaluation guide and the resulting TDHCA Self-Evaluation was too detailed. They both stated that the guide provided by the Sunset Commission staff was so detailed and specific that it did not allow TDHCA staff to provide other relevant information that may have had an impact on the final report developed by the Sunset staff.

this concern on the fact that the detailed requirements of the TDHCA Sunset Legislation are so specific that staff may not have the latitude necessary to implement the required changes to TDHCA policy and procedures.

Based on the documents analyzed and the interview responses, the first sub hypothesis, WHa is supported. The Sunset Review process at TDHCA is a detailed process.

WHb: The Sunset Review process is comprehensive.

To ensure a uniform and concise analysis in determining the supportability of WHb, the following definition for "comprehensive" has been taken from Webster's Revised Unabridged Dictionary, 1913:

Comprehensive – comprising many things; having a wide scope or a full view.

The first document analyzed, the Sunset Report to the *77th Legislature*, yielded similar results to those found when applying the definition of "detailed" with one important difference. The Report only contained those recommendations that ended up in the final legislation. So while this Report cannot be defined as comprehensive from the agency's point of view, it can be defined as comprehensive, however, in that it did include all required changes to TDHCA's policies and procedures. An example of this is the listing of all eleven Sunset Provisions pertaining to TDHCA followed by a full explanation of each provision including the expected outcome of the required changes. It is

comprehensive in that the purpose of the report is to provide a summary of the recommendations that would eventually be the Sunset Legislation.

The second document analyzed, the Guide to the Sunset Review Process, as noted previously does not relate specifically to TDHCA, but it does relate the process used at TDHCA during the Sunset Review process. When applying the definition noted above for "comprehensive", several areas of the Guide clearly met this definition. One of the aspects of the Guide that lends itself to the "comprehensive" definition is the Sunset Review questions listed on page 3:

1. How **efficiently** does the agency operate?
2. How successful has the agency been achieving its statutory objectives?
3. In what ways could the agency's operations be less burdensome or restrictive and still adequately protect the public?
4. To what degree are the agency's advisory committees needed and used?
5. How much do the agency's programs and jurisdiction duplicate those of other agencies? Could the agency's programs be consolidated in another agency?
6. To what extent has the agency recommended statutory changes that benefit the public rather than the regulated businesses?
7. Does the agency promptly and effectively handle complaints?
8. To what extent does the agency encourage and use public participation when making rules and decisions? How compatible are the agency's rules with its objectives?
9. How has the agency complied with requirements for equal employment opportunity, the rights and privacy of individuals, and purchasing products from historically underutilized businesses?
10. Are changes needed in the agency's enabling statute to improve its ability to effectively respond to these questions?
11. How effectively does the agency enforce rules on conflicts of interest?
12. How effectively and **efficiently** does the agency comply with the Public Information Act and the Open Meetings Act?
13. Would abolishing the agency cause federal government intervention or a loss of federal funds?

These questions clearly lead the Sunset staff through a comprehensive assessment of agency function. Another area that demonstrates the comprehensive nature of the Guide as also noted under the "detailed" definition, is the coordination between the Sunset staff and other state agencies such as the Legislative Budget Board, the State Auditor's Office, the Comptroller of Public Accounts, the Governor's Office and various Legislative Committees. By coordinating review efforts with such a wide variety of state agencies, the Guide demonstrates the comprehensive nature of the Sunset Review process. A final measure of the comprehensiveness demonstrated by the Guide lies in the explanation of the public input process. Citizens are allowed a variety of opportunities to comment on the agency under review. The primary means identified in the Guide are public hearings at which staff accepts both oral and written comments. According to the Guide, the Sunset staff compiles all comments received and presents the new information to the Commission who then decides if any additional requirements will be added to the Sunset Legislation. Based on these examples the result of the analysis is that the Guide does meet the definition used here for "comprehensive".

The third document analyzed, the *TDHCA* Self-Evaluation, meets the definition of comprehensive. Each of *TDHCA*'s main programs along with all of the sub programs is outlined in Section VI of the Self-Evaluation. The *Self-Evaluation* provides an Agency Performance Evaluation as well as an outline of the agency organization and policies. The *TDHCA* Self-Evaluation is the most comprehensive of the documents analyzed.

Interviews vs. Documents

The results of the interviews created a conflict in the analysis of sub hypothesis WHb. Up to this point, each of the documents analyzed for comprehensiveness have demonstrated a significant degree of that quality. However, the staff interviews contradicted the findings of the document analysis for this working sub hypothesis. Each of the five staff members interviewed stated that the process was not comprehensive in their opinion and that several gaps were left without comment by both the Sunset staff and the Sunset Commission.⁶⁴

The TDHCA staff interviewed all commented that it appeared that there were very specific areas that the Sunset staff was interested in and that many other areas that had both positive and negative issues were ignored. Two of the TDHCA staff commented that this selective process might have resulted from outside comments the Sunset staff had received that they were unaware of, but that in their opinions the process could not be defined as comprehensive. Three of the TDHCA staff interviewed recommended that this research include an analysis of the Sunset Commission Public Hearing tapes. When told that the tapes were in fact part of this research, the TDHCA staff members commented that the Hearings would provide a very clear representation of which areas of TDHCA the Sunset Commission was interested in reviewing.⁶⁵

⁶⁴ Some gaps noted by the interviewees included how the sunset recommendations could be successfully implemented by TDHCA as well issues related to unmet funding needs.

⁶⁵ The findings of this additional analysis for WHb, not previously outlined in the Methodology Chapter, are discussed in the Conclusion Chapter.

When asked why they thought the process was not comprehensive when each of the five had commented that the Self-Evaluation and the Guides provided by the Sunset staff were comprehensive, two of the TDHCA staff commented that they felt the Sunset staff had particular problem areas "in mind" when conducting their review. The remaining three TDHCA staff members had no clear reason why the overall process was not as comprehensive as presented in the Guide.

While the documents analyzed meet the definition for "comprehensive", when corroborated with the interviews, sub hypothesis *WHb* is not supported by all of the data when viewed as a whole. In light of this conflicting data, further analysis of *WHb* is presented in the Conclusion Chapter of this paper,

WHc: The Sunset Review Process contains an "in person" element.

The Sunset staff, based on their review of TDHCA, wrote the first document analyzed for this sub hypothesis, the Sunset Report to the 77th Legislature. The following quote taken from the *Report's* Introduction, provides evidence of the "in person" element of the TDHCA Sunset Review process:

In the 17 months from September 1999 to January 2001, the Sunset *Commission*⁶⁶ worked extensively with each of these agencies to evaluate both the need for each agency, as well as its functions. The *Commission* held eight public meetings to review staff recommendations and hear suggestions from the agencies and the public on both *the* need for each agency and how its operations could be improved.

⁶⁶ The Sunset Commission is comprised of members of the Texas State Legislature and public appointees, as noted in the Setting Chapter. The Sunset Commission staff conducts the primary research and review that is then presented to the Commission. In very few instances do Sunset documents actually refer to the "staff".

The remainder of the report provides the recommendations for changes to each agency under review. The report provides adequate evidence to support the "in person" element of the review process.

The second document analyzed, the Guide to the Texas Sunset Review Process, as stated earlier does not relate specifically to TDHCA, but does provide an overview of the process used at TDHCA. Several phrases or statements made in the Guide provide evidence of the "in person" element of the review process.

Page 1 "How are Agencies Reviewed?":

Staff of the Sunset Commission works extensively with each agency under review to evaluate the need for the agency, propose needed statutory or management changes, and develop legislation necessary to implement any proposed changes.

Page 3, same section:

The staff review of an agency typically takes from three to eight months depending on the size and complexity of the agency. Sunset staff gathers information from a broad range of sources." "Sunset staff collects and evaluates information from extensive interviews of agency personnel, performance reports, operational data, and other sources.

The Guide provides substantial data supporting the inclusion of an "in person" element in the Sunset Review process

The third data source analyzed is the Sunset Public Hearing official recordings.⁶⁷ The Sunset Public Hearing recordings provide definitive evidence of the "in person" element of the sunset process. The Sunset Commission, made

⁶⁷ The Sunset Commission does not create printed transcripts of any of the Sunset Public Hearings. The Public Hearings are available in cassette form only. The weaknesses of the cassette transcripts are addressed in the Conclusion Chapter.

up of four members from the Texas House of Representatives and four members from the Texas Senate. The two remaining members are appointed public members. The Chair of the Commission for the 2000 Sunset Process is Representative Fred Bosse and the Vice Chair is Senator Chris Harris. The Commission conducted more than twenty hours of public hearings that included discussions and testimony from the TDHCA staff and Board of Directors, testimony from citizens and interested organizations and Commission staff.⁶⁸ Based on the evidence analyzed in the public hearing recordings, the TDHCA Sunset Review process contains an "in person" element.⁶⁹

The final analysis related to WHd is the **interviews** conducted with TDHCA management staff. All five of the TDHCA staff interviewed verified that the Sunset Commission staff did perform on site and in person reviews of TDHCA during the review process. Two of the five TDHCA staff interviewed for this research commented that they were personally interviewed by Sunset staff regarding TDHCA policies and procedures. One of the five TDHCA staff members interviewed stated that she was a primary point of contact with the Commission staff. As supported by the evidence from the TDHCA staff interviews, the Sunset Review process does contain an "in person" element.

Based on the evidence presented in the document analysis and corroborated by the TDHCA staff interviews, working sub hypothesis WHc is supported.

⁶⁸ Representing TDHCA throughout the Public Hearings was Daisy Steiner, TDHCA Executive Director. Michael Jones, TDHCA Chair of the Board of Directors and various Directors from TDIICA.

⁶⁹ Additional discussion regarding the Sunset Public Hearing recordings is presented in the Conclusion Chapter.

WHd: The Sunset Review process results in Legislative action.

The first document analyzed, the Summary of Sunset Legislation to the 77th Legislature, provides conclusive evidence that the TDHCA Sunset Review process resulted in Legislative Action on page 83:

Senate Bill 322 primarily contains recommendations of the Sunset Commission designed to increase the public accountability of the agency and its Governing Board and to ensure the agency allocates resources to best meet the state's most pressing housing needs. The Legislature continued TDHCA for a two-year probationary period, rather than the usual 12 years extension, to provide for an evaluation of whether TDHCA has successfully carried out the Sunset recommendations before the next legislative session.

The Report goes on to provide a summary of Senate Bill 322 and the actions to be taken by TDHCA to meet the requirements of the Sunset Legislation. Based on the analysis of the Summary of Sunset Legislation to the 77th Legislature the TDHCA Sunset Process did result in legislative action

*The second set of data analyzed, the **public hearing recordings**, provide further evidence that the TDHCA Sunset Review process resulted in legislative action. The "decision tape" shows that the Sunset Commission approved the staff recommendations on January 10, 2001. As the Commission is a part of the legislature, this constitutes legislative action. Furthermore, the recommendations approved on January 10, 2001, were sponsored by Senator Lucio and Representative Gallego as Senate Bill 322. **SB 322**, signed into law on June 16, 2001 by Governor Rick Perry, is the final Sunset Bill that dealt with the Texas Department of Housing and Community Affairs.*

The last documents analyzed for **WHd** are the TDHCA Senate Bill 322 Implementation Chart, TDHCA Sunset Conference and the TDHCA Sunset Bill Highlights. The Implementation Chart is available on the TDHCA web site; it provides interested parties with up to date status reports of each of the Senate Bill 322 required changes. Also on TDHCA's web site is the Sunset Bill *Highlights*, which provides information specific to the requirements in SB 322 without requiring those interested to read the entire bill. The TDHCA Sunset Conference, held September 17, 2001 by TDHCA staff, provided all in attendance with a 5-hour workshop that explained SB 322, the implications of the bill and the strategy TDHCA was utilizing to carry out SB 322. The TDHCA staff **interviews** provided additional evidence supporting **WHd**. The last question of the TDHCA staff interviews asked if to their knowledge, did the sunset process result in legislative action. All five of the TDHCA staff interviewed stated that the sunset review process resulted in the passage of Senate Bill 322. All three of these documents along with the corroborating interview responses, provide conclusive evidence that the Sunset Review process at TDHCA resulted in legislative action. Therefore, **WHd** is supported.

Chapter Six

Conclusion

This chapter summarizes the findings presented in the Results Chapter, the weaknesses and strengths of the research, unanticipated data and recommendations for future research. As stated previously the expectation of this research was to develop a greater understanding of government oversight methods. As a result of the scholarly literature, a conceptual framework was developed defining effective oversight. This definition led to the development of a working hypothesis as the conceptual framework. This framework was utilized to explore evidence gathered from a case study of the Sunset Review process at the Texas Department of Housing and Community Affairs (TDHCA). Four working sub hypotheses were formed to tie the working hypothesis to the case study. In summary, the four sub hypotheses posited that effective oversight is detailed, comprehensive, has an "in person" element and results in legislative action. The four sub hypotheses were applied to the Sunset Review Process at TDHCA and tested by analyzing various documents related to the TDHCA Sunset Review and interviewing TDHCA management staff.

Summary of Findings

Three of the four sub hypotheses were supported by the document analysis and TDHCA staff interviews. Document analysis, corroborated with the staff interviews verified that the TDHCA Sunset Review process was detailed, contained an "in person" element and resulted in legislative action. The fourth sub hypothesis, that the TDHCA Sunset Review process was comprehensive, was not supported by the staff interviews, although the document analysis did support the sub hypothesis.

Results:

The Sunset Review process is detailed.	Supported
The Sunset Review process is comprehensive.	Not supported
The Sunset Review process contains an "in-person" element.	Supported
The Sunset Review process results in legislative action.	Supported

In an effort to resolve the conflicting data, a secondary analysis of the public hearing recordings was conducted. This analysis did not provide any additional data that might resolve the conflict. During the interviews, the TDHCA staff had each commented that the Sunset Review process was not comprehensive. The recordings of the public hearings also demonstrated a focused process, not comprehensive to the agency overall. It appears that due to the time limitations of the Commission. discussion is focused on the

recommended changes, not the entire agency's evaluation. This is similar to the case of Sunset Report to the 77th Legislature. As noted in the Results Chapter, it was determined that because the purpose of the Sunset Report to the 77th Legislature was to present the Sunset recommendations it was comprehensive in that regard. Maintaining consistency with the earlier determination regarding the Sunset Report to the 77th Legislature, the Public Hearing recordings meet the definition of comprehensive.

The question remains as to how to resolve the conflict between the TDHCA staff interviews and the document analysis. As Babbie noted and as referenced in the Methodology Chapter, one weakness of using interviews as a data source is the chance that the interview subjects may be biased. This is one of the primary reasons Babbie recommends corroborating interviews with other data. The TDHCA staff interviewed all commented that the TDHCA *Self-Evaluation* was comprehensive. It is highly likely that the reason the TDHCA staff did not view the final results of the Sunset Review process is because the Sunset staff only addressed those areas they viewed in need of change – not all areas of TDHCA. Each of the TDHCA staff interviewed stated that areas remained in need of change that the Sunset staff did not address. It is this belief that led the TDHCA staff to comment that the process was not comprehensive. It appears that this conflict is based in a difference of opinion; it is the professional opinion of the Sunset staff that all areas in need of change were addressed in the Sunset report and ensuing legislation. The TDHCA staff apparently disagrees, hence the perception that the Sunset staffs review is not comprehensive.

Despite this possible explanation, when viewed in total and in accordance to the methods used to analyze the other three sub hypotheses, **WHb** is not supported. Therefore this research fails to conclude that the Texas Department of Housing and Community Affairs Sunset Review process was comprehensive.

Strengths and Weaknesses of the Research

As became evident in the analysis for **WHb**, a primary weakness of this research is the potential for bias when utilizing interviews as a data source. In this research in particular, this possibility is acute. As noted throughout this paper, and supported by the Slaughter and Curry et al, the Sunset Review process is highly political. This being the case, it is more likely that the TDHCA staff interviewed in this case had more reason for bias than in a normal research setting. While this weakness did present itself, by corroborating the interviews with document analysis, the risk of this weakness is substantially reduced. The strength of using interviews is the possibility for additional insight available only through open-ended discussion. This in fact is the case with this research and will be discussed in the unanticipated data section of this chapter.

Another weakness of this research is the public hearing recordings. While the majority of the recordings were clear, about 10% of the recording time was unintelligible. While printed transcripts would have been preferable as a data source, the Sunset Commission does not transcribe its public hearings. The hearings are only available on tape. Given that the recordings covered approximately 20 hours of hearings, the small amount that did not fully record is

minor in comparison. Despite this drawback, the recordings provided a valuable view of the Commission Public Hearing process.

The primary strength of this research is the large volume of documents available for analysis. The Sunset Review process is a highly defined process; this being the case, substantial amounts of the data from each review is printed and published. The *Guide to the Texas Sunset Review Process* outlined the exact process followed for the TDHCA review. This level of information significantly simplified the analysis process. The TDHCA Self-Evaluation along with the Sunset Legislation Summary provided a clear picture of the research setting and the final actions taken by the State Legislature.

Unanticipated Data

Several items of particular interest were discovered during the research and analysis process not related to the working hypothesis. As noted in the Literature Review Chapter, the purpose of government oversight is to improve government efficiency and **effectiveness**.⁷⁰ A parallel effect of the Sunset Review process appears to be the demoralization of the agency under review. To quote one of the TDHCA staff interviewed: "The negativity associated with the Sunset Review process has taken a toll on staff morale." This sentiment was consistent with all five interviewees. Each of the TDHCA staff interviewed expressed concern regarding the "beating" the Department took during the Sunset Review Process, and how the result of the process appears to have lowered the public's

⁷⁰ As noted in the Introduction Chapter, this research focused on literature and elements of legislative oversight as opposed to performance measurement, which can be viewed as oversight as well.

perception of TDHCA as an effective state agency. One of the TDHCA staff interviewed commented that because TDHCA emerged from the Sunset process with a tainted reputation and lower staff morale, the challenge of meeting the Sunset Legislation's required changes is significantly increased. Patricia Shields in her forthcoming article⁷¹ "The Community of Inquiry: Classical Pragmatism and Public Administration" offers a resolution for this apparent negative aspect of Sunset Review. Shields notes that a "community of inquiry" focuses on a specific problem and that the problem is the "catalyst that helps or causes the community to form and it provides a reason to undertake inquiry" (2002, p. 3). This effort meets the needs of Sunset Review⁷² - to search out problem areas and make recommendations for improvement. According to the interviews, it is the methods employed by the Sunset Legislation that results in damage to an agency's morale and/or reputation. As Shields notes the community of inquiry method creates a more positive environment from which solutions can be derived:

The members of a community of inquiry proceed with a sense of critical optimism. The point here is that there is a faith or sense that if we put our heads together and act using a scientific *attitude* to approach the problematic situation, the identified problem has the potential to be resolved. This is faith in the human capacity for progress (2002. p. 5).

Recommendations for Future Research

Research on the Texas Sunset Review process is limited, although the research that has been conducted to date provides exceptional opportunities for future research. Research regarding the long-term effects on the agencies that

⁷¹ To be published in *Administration and Society* at a later date.

⁷² According to the Guide to the Texas Sunset Review Process.

have gone through the Sunset Review process would aid in devising a process that determines needed changes, but also supports the agency staff throughout the changes. Research that encompasses and builds upon Shield's "community of inquiry" is recommended. Another potential research topic would be the comparison of the Commission staffs preliminary notes and findings to the final staff report presented to the Commission. This research could be taken one step further by comparing the staffs notes to the final legislation.

In conclusion, this study has presented significant qualitative data on two areas in which little prior study has been conducted. Government oversight, as noted in the Literature Review Chapter, is a subject that most public officials will agree is important, but very little discussion has been conducted to determine what constitutes effective oversight. One of the processes that allows for regular oversight, the Sunset Review Process, has had few studies conducted on its effectiveness. The literature presented here provides substantial information on a variety of oversight methods and posits what defines effective oversight based on the strengths of those methods. This research also presents an in-depth examination of the Sunset Review process that will educate and hopefully lead to further research and improvements in the process.

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